STOKES' LAST APPEAL.

The Application for a Stay of Proceedings.

The Whole of the Objections Reviewed by Prisoner's Counsel.

THE CASE SUBMITTED.

Judge Davis Reserves His Opinion.

INTERVIEW WITH THE CONDEMNED MAN.

In accordance with Judge Boardman's sugges exceptions and the concurrent motion for a stay of proceedings—that the latter m ght be presente and argued before another Judge of the Supreme Court while he held the bill of exceptions for review and decision-the motion for the stay of proceed ngs was argued yesterday. Judge Davis, after taking his seat in the Supreme Court Chambers ared to listen to the argument of counsel in the The court room was crowded throughout tion of the class of people who watched with such deep interest the proceedings when the trial question so vital to the prisoner he is never present, and probably after the long strain upon ir mental and emotional feelings and with that ling of hope long deterred which maketh the beart sick, there was only one or two of Stokes proceedings involved in the argument of counsel.

MR TREMAIN'S ARGUMENT. the fact that, though Judge Boardman and Mr. Beach, associate counsel for the people, had both supposed that this application could be made without notice, they had, for more abundant caution, given notice to the District Attorney.

necessary after judgment.

Mr. Tremain resumed, arguing that a stay of roceedings should be granted in all cases where doubtful question was presented, either by exceptions in the bill of exceptions or in exisic matter not appearing directly in the bill of exceptions. He cited various cases to show that if there were any material doubtful questions the Court was bound to grant a stay of proceed-ings until they could be decided by the appellate tribunals. He cited especially Foster's case, in which the Court of Appeals, in view of newspaper condemnations, had, while sustaining the case, approved in words the granting of a stay of preedings, and had said that no question could be trivial in a capital case. This case was remanded by the Judge who tried it to the Judges of this district without prejudice, and he should not insult this Court by warning It against popular clamor and prejudice. There were two bills of exceptions in this properly before the Court. There was a special ea put in by the defendant, containing seven erent pleas, arraigning the composition of the It no Grand Jury at all. On six of these pleas derring prejudice to the prisoner, a trial was had, nd on that trial the Court (Judge Cardozo) took said that the question was so doubtini that, should the result of the principal trial require it, it would be proper to give a stay to have it decided. Here was a judicial decision by a Judge of this very Court that the question was one of such doubt as to require the approval of a higher Court. He argued that the matter was material. The only case doubting this was Freeman's case, arising on a trial of the present insanity of the prisoner. That was not a plea which would mussh the indictment, but merely defer the trial. This was very different from the case of a special plea. He cited a case where the prisoner had consented that a special plea of previous trial be tried by the Court, and the General Term had held that this was error and that the prisoner could not waive his right to have the special plea tried by a lury. In this case the Court had been saked to let it go to the jury and had been requested to charge the jury, had admitted and assumed the truth of every adegation of the jury, but had, evertheless taken the case from the urry verthad said that the question was so doubtful that. of every allegation of the jury, but had, theless, taken the case from the jury, yet had d that it was a proper case for a certificate of

nevertheless, taken the case from the jury, yet had grated that it was a proper case for a certificate of appeal.

In the People against Grant it was held that a prisoner was equally entitled to a trial by jury on a special plea as on a plea in bar. Was this a trial by jury, and could this natter be called frivolous? The then counsel, knowing that there had been no proper trial, prepared a second special plea, which he presented to Mr. Justice Ingraham. But Mr. Justice Ingraham summarily struck it out without requiring the prosecution to piead. That fact did not appear on the bill of exceptions, but would appear by a certiforar' in diminuition of the record and could be so reviewed. Counsel proceeded to present the exceptions on the trial itself, and claimed that not one, but ten, of these exceptions were fatal to the trial. He selected two principal chainings to jurers—those to Manchester and Lysaght. They beth admitted they had opinions formed, and yet both were allowed to sit as jurors under these exceptions. Manchester admitted that he had said if he "went on the jury he would hang him quicker than ligatoing," though he said that was a joke. His own statements were stronger than the statements which were held to disqualify a juror in he cancemi case, and this case was but one of twelve. The question then came on the "Constitution and the said that was a poke. And this was no light question. He was free to say that, coming fresh from the first Hall trial, he had been at first in navor of it, but he did not expect so soon to see an line ration of it like this, where three of the jury were found thus prejudiced. He had received that very morning oy express a decision given after very thorough discussion that a similar provision of a statute of Tennessee was unconstitutional. The constitution in this respect controlled the State Courts.

Mr. Tremain replied

States constitution in this respect controlled the State Courts?

Mr. Tremain replied undoubtedly it did; and though he had no authorities to produce, that had been the expressed opinion of several of the United States Judges. It was one of many rights secured by the constitution of the United States but not specially mentioned in the State constitution.

Judge Davis asked if this question was not now before the General Term of this district.

Mr. Phelps said it was, but was not necessarily involved in the case which had been argued, which might be decided in other points.

Mr. Tremain said at least it was a question which was of gravity enough to go to the Court of Appeals.

which was of gravity enough to go to the Court of Appeals.

The Court here took a recess.

AFTER RECESS.

Mr. Tremain resumed his argument. He passed over the exceptions to the evidence and took up the exceptions to the charge, and first to the Paugle's charge that the fact of the killing being proved the law presumed it was murder. (Mr. Dos Passos read the words of the charge on this point.)

proved the law presumed it was muruer. (Mr. Don Passos read the words of the charge on this point.)

Mr. Tremain continuing, said that was not the law in this state. It was true that the jury might her premeditation from the deadiy weapon or from the circumstances; but that was a different thing from the proposition of the charge that the law presumed murder from the killing. Judge Gould had made a similar ruling, and the Court of Appeals had expressly and directly overruled his ruling, and had beld that though from circumstances the jury might higher presenditation, the law did not throw on the prisoner, from the mere fact of the killing, the necessity of proving a negative—the absence of intent to kill. (Nelson's case.) He recalled in this connection the prisoner's testimony must be received with great distrust, and argued that under the prisoner's testimony must be received with great distrust, and argued that under the charge the necessary result of any killing, where there were no wilnesses—and in this case Reamond had fied and liart was perjured—the charge the necessary result of any killing, where there were no wilnesses—and in this case Reamond had fied and liart was perjured—the charge the necessary result of any killing, where there were no wilnesses—and in this case Reamond had fied and liart was perjured—the charge the necessary result of any killing, where there were no wilnesses—and in this case Reamond had fied and liart was perjured—the charge the necessary result of any killing, where there were no wilnesses—and in this case Reamond had feed and liart was perjured—the charge the necessary result of any killing where the first to hear the result, and had aken their instances the trom that duty by any presumption of law. Not even the common law, which dup protocome the consistence the crime of her presumption of law.

The pury must find the intent to kill; they cannot be relieved from that duty by any presumption of law. For even the constituted the crime of the limit of the present impression, t

least the premeditation was complete and the in-tention fully formed when the act was don. He had asked the Court to charge this, but the Court had simply charged in the words of Clark's case, which simply said that no particular time was needed.

THE COURT SPEARS.

The Court thought that the request sought to introduce an element of time excluded by the Court of Appears, and though as a new question he would agree with Mr. Tremain, yet he was bound by its decisions.

agree with Mr. Tremain, yet he was bound by its decisions.

Mr. Tremain said he thought there was no inconsistency between his proposal and the decision of the Court of Appeas. His NEXT POINT WAS that the Court had introduced a theory as to the pistol found on the stairs, which no one and suggested before—namely, that the pistol seen by Jenny Turner and others was in mot the prisoner's pistol. It did reconcile soule of the testimony, but at the expense of conarging the pistoner with perjury, and of less importance, contradicting Thomas Hart. It was really a hypothesis unwarranted by the evidence, and the suggestion by the Court of such an hypothesis was well settled to be good ground for a new trial. He claimed that the charge was substantially saying that it reconciled more evidence to say that the prisoner committed perjury. He insisted this was a grave many to the prisoner.

He alluded to the group of questions in which

pury. He insided this was a grave mury to the prisoner.

He aliuded to the group of questions in which Mr. Stokes was asked as to proceed aga before the Courts. He claimed that of all these matters the record was the only true evidence, the also claimed that the questions to the boy who was introduced to impeach Hart's testimony as to his conviction of crime as expressly condemned in Reai's case. The allowance of the reading of the minutes of the Grand Jury in evidence to show that

The allowance of the reading of the minutes of the Grand Jury in evidence to show that STORES AND MANSFIELD HAD BEEN INDICTED FOR BLACKMALLING.

Was, he argued, a great in my to the prisoner, especially where there was an utter is lure to in any way show that it is the time Mr. Stores know of it. He missted that this was utterly incomp tent as was prejudical, proving a distinct charge against the pusoner, while the cross-examination is maked to show the character of the witnesses on whose word the indictment was found. The Judge refused to permit the detence to show threats of Fisk unless the orisoner was informed of them, but permitted this indictment to be proved without showing the prisoner's knowledge of it. The Court had also excluded questions as to the nervous condition of the prisoner's mind, excited by threats of Fisk, and other causes believed by threats of Fisk, and other causes believed by threats of Fisk, and other causes believed by threats of the actual occurrence.

Counsel called attention to the various cases of such exclusion and then continued:—These exclusions seemed based on two grounds—one that it was previous to the shooting and the other that Fisk was not shown directly to have caused the acts. He submitted this was plain error. The questi in was not what Fisk had done, but what Stokes believed about it. He cited the case of Rector, who was allowed to prove that there had been made by the assailants to return. All this went to the guity intent. Was it possible that they were not at liberty to show that he had reason to believe, and did believe, he was dogged for weeks by the radianly emissaries of Fisk—Fisk, whose character they had find from the order to prove that there had been made by the assailants to return. All this went to the guity intent. Was it possible that they were not at liberty to show that he had reason to believe, and did believe, he was dogged for weeks by the radianly emissaries of Fisk—Fisk, whose character fiely had find a firm of the province of the particular thre

and on the Albany and Susquehaum Road. He submitted this was erroneous, as such evidence went to show the character of the deceased. Counsel also objected to the admission of the testimony as to wnat occurred between Mr. Fisk and himself after the shooting. He called attention to the fact that no two agreed as to what did occur at that time. That was introduced merely to draw an inference adverse to Stokes from his silence. He had resisted most strenuously its admission. The law would not allow his statements, under such circumstances, to be used against him, but that protection was useless if his silence was to be taken against him. To meet the imputations growing out of that silence they had offered to show that within an hour he told the same sto y to his counsel, Mr. Mokeon, and that was excluded. He also excepted to the exclusion of testimony as to the reason of De Corlie's testimony after Crockett's effort to show that he was discharged for inattention. Again, there was a discrepancy between Powers and Crockett as to who gave the pistol to Caplain Byrne, and to explain this discrepancy Captain Byrne was allowed to give a conversation after he received it. Again, to explain Dr. Tripler's absence, who, by the by, was found conveniently ensconced in the court room at the summing up, the prosecution were allowed to show that here weeks ago, and that without any proof that he ever resided at the house inquired at. Again the Court had refused to permit Mr. Stokes to state why he carried a pistol. Again they had taken exception to the effort to discredit Mrs. Williams by showing that while she was living with her husband, and he in the employment of Mr. Fisk, they lived in the same house in which Miss Mansfield and Mr. Fisk cohabited. He also excepted to the admission of Mr. Curtis' guess that if he had looked for it he would have seen a pistol had there been one on the stairs; to the questions to Mrs. Morse as to the reason of Jenny Turner leaving her, and the testimont that Staipeton did not seem to have been

reason of Jenny Turner leaving her, and the testimony that Stapieton did not seem to have been absent from the island by the records on the day of the homicide. There were besides given matters not contained in the bill of exceptions, and they had brought be ore his Homor the affidavits used before Justice Boardman on the motion for a new trial. The facts to which he desired to call attention were the procuring of testindony not judgert, but by a juror's visiting the Grand Central Hotel, and the absence of the prisoner during part of the trial; this latter he believed those matters might be brought before the General Term by certiforari for diminution of the record, as in the Cancemi case, or by the older form of assignment of error in fact. He thought there were serious errors in this case, and trusted that there would be no occasion to go ferther than his Honor. He was satisfied that if there were any yielding to any other inducence.

Judge Davis said he did not desire to hear any further argument of that kind. He had been unwilling to hear this motion, and, perhaps, was sa far inducenced by public opinion; but having once entered upon the duty he should not permit any influence to sway him. If he stood on one side in his judgment and all New Yerk on the other it would not sway him from deciding according to it. Mr. Tremain said he had no doubt of that, but he must insist, in view of the statement of Judge Cardoze, in view of the recent seem decision of the Jury law, and in view of the statement of Judge Cardoze, in view of the recent seem decision of the Jury law, and in view of the statement of Judge Cardoze, in view of the recent seem decision of the Jury law, and in view of the sase, he had not immerified the case, he was not prepared to argue the motion. The counsel who has conducted the trial had felt, in view of what he had said at the argument before Judge Boardman, that he only in the matter.

Mr. Beach said that he had just come in, and, having heard an allouish to his recision on Monday last, which

him at the Tombs yesterday. At rumor that was affoat that Judge Loardman had reinsed to grant a stay. The reporter obtained adnission with some difficulty, and stood for a nom pt in front of cell No. 4, where the prisoner is confined. Stokes then came out and was

The condemned man was dressed in a gray light waking coat, handsome slippers and white shirt, contrasted with the pule took of his race. He was smiling, but nervous and fldgely. The stove which Stokes got right up by it and spread out his thin hands be ore it, rubbing them hard as if

TO GET THEM WARM.
"You seem cold, "r. Stokes," said the reporter, by way of entering into conversation.

be cold if you were placed in that cell all the time. It has plenty of water and plenty of rats-those are the only advantages I can see bout it." He looked up at the prisoners, nearly all of whom

on the tiers above were leaning over peering at him intently.
"Just look at those people how they stare. Any body would think I am a wild beast," and he again

gave a low musical laugh.
"You have heard of the decision. What do you think of it ?" asked the reporter. "What decision ?" said Stokes, with

A SHADE OF ANXIBLY overspreading his countenance. "There has been

no decision, has there ?"
"Why," said the reporter somewhat embar

rassed, "I understood there had been a decision given by Judge Boardman denying the writ of error."
"On! I guess not," said Stokes. "He has postponed it to next luesday."
Just then Sheriff Bennan came walking back
after having talked to roster a few moments.
Stokes appealed to him for a decision in the mat-

Palmer, and on h aring A. R. Dyett, of counsel for piantaff, and J. W. Edimonds and A. R. Lawrence, Jr., for detendant—
It is ordered that the de endants, the Broadway National Bank, the Touta National Bank, the Touta National Bank, the Tradesman's National Bank, the National Park Bank and the Union Trust Company desid and refrain item paying to the defendant, Francis A. Palmer, as Chamberlain or otherwise, or to his order, any part of the interest now due or hereafter to become due upon any money on deposit with either of the said nour defendants belonging or standing to the credit of the Mayor, Aldermen and Commonalty of the city of New York, or of the county of New York, or to the credit of the said Palmer, as Chamberlain or otherwise, or from paying any part of the said interest to any person except upon cleeks or warrants countersigned by the Mayor and Comptroller of the city of New York. And I furture order that the delendant, Francis A. Palmer, be en olined and restrained from direc'ty or indirectly receiving or disposing of any part of the aloresaid interest. Nothing herein contained is intended to prevent the payment of the lawful salary of the Deputy Chamberlain, and of the cierks in said Chamberlain's bureau, by said respective banks and trust company proportionately to the monthly balances in each. Nor shall anything herein contained be construed to permit the payment of said city or county moneys on deposit with, or due, or to become due, by any of said banks or trust company, except upon caeck or warrant, countersigned by the Mayor and Comptroller of the city of New York.

It is further ordered that this order shell stand as a substitute for the original injunction granted herein upon the loth day of January, 1873, and that any party to the action may at any time apply to the other parties herein, for such modification or change of this order as such party may be advised to seek. ter.
"Why, Stokes," said the Sheriff. "I have been explaining to you that Judge boardman has decided to give you no stay of proceedings. He said he would grant a writ of erior, but if he did he would also have to give the stay, and this he will not do." "But what about the new trial?" asked Stokes,

"But what about the new trial " asked Stokes, still more auxious;" "Oh, that," said Mr. Brennan, "has been postponed uqui aext Tuesday."

"Then 1t's ail right," said Stokes, in a jovia-manner. "I don't think Boardman likes to do it but I know

manner. "I don't think Boardman likes to do it but I know

HE WILL GRANT A NEW TEIAL.

He can't do otherwise. Why, there's no lawyer in the state more enheunt than Mr. Tremain, and he has assured me there is no possibility of a stay being rejused on the exceptions made. Besides, many other lawyers, the best that could be found, have decided likewise, and are of opinion that a new trial cannot be refused."

"But," said the Sherilf, "is it not well in any case to be prepared for the worst?"

"Yes, yes," said Stokes, rapidly. "After the verdict of that jury I am prepared for anything. But what do you think, Sherilf," continues Stokes, "of a juryman who goes up to the Grand Central Hotel to collect evidence?"

"If I were on a jury," said the Sheriff, "I would get all the proof I could, in any way I could."

"Yes; but," said Stokes, argumentatively, "you are bound, when on a jury, by an oata, to judge by the evidence in the case alone. You are distinctly charged to not

are bound, when on a jury, by an oath, to judge by the evidence in the case alone. You are distinctly charged to not go outside of the Evidence and judge according to outside it right for a juryman to go outside of the Court and the evidence and judge according to outside it circumstances? Who knows it what he sees and hears in the Grand Central does not bias his mind? He then comes back and gives his opinions to the other jurors, who may be won over by his arguments. You see, then, how a circumstance like this, which seems very small, may become of great importance. Why, Judge Shipman, of the United States Court, in a case where a juryman looked at a directory, called the whole jury back, and reprimanded this man for golng outside of the evidence to decide anything for himself. Is it not, then, clearly wrong?"

"Well, yes," said the Sheriff; "In that light it certainly is."

"And what do you think of this man Manchester," continued Stokes, "who said before he went on the jury that he would hang Stokes anyhow? Are these the sort of people who should be permitted to deal with a man's hie? By all means I am entitled to a new trial. A triend of mine went up lately and examined the stairway and passages in the Grand Central Hotel and measured them, and he came back satisfied the lacts could not have been as they were told on the trial."

a new trial what will be the course of your counset?" asked the reporter.

"Why, there are thirty-one other Judges of the Supreme Court in this State," said Stokes, "all of whom can give me

A STAY OF PROCEEDINGS,
and on the exceptions which have been taken I know some one of them will do this."

"You are entirely sanguine as to the result?"

"Oh, certainly," said Stokes, smiling; "I have no fear of that. Mr. Tremain's word is enough for me, and I know my counsel will exert themselves to their utmost to do all they can for me."

"How do you find your sojourn here?"

"They treat me well enough; though I think they are over particular in their measures to prevent liquor getting to me. Why, they are even suspecious of cider, which has naver been densed me

at this moment a cousin of Stokes came in to see him, and the reporter retired. Going out, the reporter asked Sheriff Brennan what he thought of Stokes' chances for life? "They are very bad, I am airaid," said the Sheriff, "and he

"and he DOES NOT SEEM TO REALIZE IT.

I wish he could be made to understand that there is a possibility of the sentence of the law being carried out, so that he might prepare himself. He is too sanguine by far. My opinion is that the probabilities of his getting a stay, now that Judge Boardman has denied it, see very small indeed."

Stokes, throughout the interview, was in the best spirits, and little seemed to realize the precarious position he is placed in by the decision of Judge Boardman.

COUNSELLOR HOWE IN CUSTODY.

He Rides Over the Sidewalk, but Faile to Override the Justice-He is Brought Before Judge Dowling and Duly Committed-Latest Phase of the Arrest.

About half-past nine o'clock yesterday, after Judge Dowling had disposed of the morning watch returns and finished his breakfast, he was about returning to the Tombs, when, coming through Frankim street, a horse's nose rubbed against his

He turned suddenly around and saw a gorgeous equipage, with liveried attendants, and the burly orm of Counsellor William F. Howe issuing from

Officer Grace, of the Sixth precinct, was stand-

The Judge said to him at once, "Why don't you arrest that man for driving on the sidewalk?" The officer smiled and answered, "Why, that is Mr. Howe,"

Judge Dowling-I don't care who he is. If one of those poor truckmen were to drive on the sidewalk you would arrest him at once, without any authority. I tell you to arrest him immediately. Officer Grace placed his potential hands on the cream-colored shoulders of the counsellor and took him in custody. The march towards the Tombs 2ttracted an immense concourse, and quite a procession escorted the distinguished prisoner to the halls of justice. He pantingly ascended the steep stone steps and was allowed to pause for breath. Judge Dowling sat on the bench.

Judge-What charge bave you to make against Officer Grace-He drove his coach on the side

walk, in violation of a Corporation ordinance. Counsellor Howe-There was a great crowd on the street, Your Honor, and I could not help it. Judge Dowling-It was a most flagrant outrage. I myself was witness to it. I was coming down

Judge Dowling—it was a most figrant outrage.

I myself was witness to it. I was coming down the street when the horses' heads actually touched my shoulder. You must understand that even you cannot override the law.

Counsellor Howe—I did not intend to override the law or justice either.

Judge—You may think this is a joke, sir. It is not, sir. I will fine you ten dollars for violation of a Corporation ordinance.

Counseller Howe—I demand a trial by jury; and, it being a missemeanor, a trial at Special Sessions. Judge Dowling—I don't care about your technical points. You can go to the Courts below and raise all the points you want. I am going to commit you now. Officer, take him down stairs, where he will stand committed until his fine is paid.

Howe (excitedly)—I protest, I protest.

Judge Dowling (decisively and sententiously)—Take him down stairs.

The counsellor accordingly was taken from the court room via the prisoner's exit.

The counsellor went down stairs, paid his fine and was discharged.

In the alternoon Counsellor Abe Hummel appeared, and formally served the august Judge with a Supreme Court summons for relief in an action for false imprisonment. Judge Dowling (took the pro-

THE CITY CHAMB RLAINSHIP.

Funds-Important Order by Judge Bar-

the original injunction, accepting in the main

suggestions of Judge Edmonds on behalf of Mr. Palmer, but modifying them in some particulars,

The order, according to his directions, is to stand

as follows:—
On reading and filing summons and complaint duty verified and adduvit of the plaintin and Richard A. Stores, and temporary injunction and order to show cause granted by Mr. Justice Barrett, on the loth day of January, 1873, on the part of the plaintiff, and the affidavit of Francis A. Palmer on the part of the defendant, Francis A. Palmer, and on h aring A. R. Dyett, of counsel for plaintiff, and J. W. Bilmonds and A. R. Lawrence, Jr., for defendant.

THE COURTS.

Business in Bankruptcy.

S. Aspinwall, John Schuster, Lindley M. Hoffman,

Patrick Smith, William M. Graham, The Deer

Park Bluestone Company, William Fessenden

Park Binestone Company, William Fessenden, Edgar F. Day, Samuel Cohn, Byron Sherman, Porter Sherman, Elise khrich, Isaac Haddock, Joseph Page, Joseph Manhelmer, David Lasky, Martha Roby, Richard Graham, William E. Morferd, Henry Ruediger, August Rosenthal, Robert Baile, Peter P. Decker, Matthew B. Brady, Abraham Baldwin, Henry D. Sanger, Leonard J. Haas, Alexander H. Samson, Myer Londner, Simon Gruhn, William Haw, Jr., Charles Hoffman, Aaron Goodman, Israel Stone.

DISCHARGES,
Herrmann Bolte, Mary J. Bearndine, Louis Lebernann, Edward Burnham, Reuben Bowler, Septinus E. Swit, Borden W. Plumb.

SUPREME COUNT-CHAMBERS.

Decision. By Judge Davis.

John Foley vs. The Mayor, &c., of New York.Order settied. Let a copy be engrossed and hande

SUPERIOR COURT-SPECIAL TERM.

lenving motion.

Benedict, Jr., vs. Gutta Percha and Rubber Manuacturing Company.—Order of reference.

COURT OF COMMON PLEAS-SPECIAL TERM. Decision By Judge Robinson.
Thorn vs. Shiel.—Objection sustained. Motion to compel purchasers to take title denied, with \$10 costs.

> BROOKLYN COURTS. CITY COLRT.

Funeral Runaway - Undertakers' Before Judge Neilson

Catharine Moran vs. John Neuman .- The de fendant is an undertaker, doing business in Brook-

coach for a funeral, to go and return from Flat-bush Cemetery. On their way to the cemetery the funeral procession passed along Flatbush avenue till it reached the entrance to Prospect Park,

when several of the carriages, including

when several of the carriages, including plaintiff's, left the procession, and entered Prospect Park, expecting to meet the funeral at Flatbush. When in the Park the horses attached to plaintiff's coaca became unmanageable and ran away. The driver was thrown off the coach, and in turning the corner of Flatbush road the coach and horses were thrown into a ditch on the side of the road, and plaintiff was considerably injured.

At the close of plaintiff's case Mr. T. E. Pearsail, counsel for defendant, made a motion for a non-suit, on the ground that the undertaker was not liable, as he only lurnished the coach to defendant for the purpose of going to the funeral; that the undertaker, not being the owner of the coach, he had no control over the driver; that the driver was not the servant of the undertaker, but the servant of the owner of the coach, second, that when the plaintiff allowed the driver of the coach to leave the funeral procession for the purpose of riding through the Park the plaintiff violated her contract, and the driver was then under the control of the plaintiff.

The Court granted the nonsult and dismissed the case.

COURT OF SESSIONS.

Arraigaments. Before Judge Moore.

The Grand Jury appeared in Court yesterday and

presented a number of indictments. They then re-tired to resume their labors.

The following prisoners were arraigned:

James Smith, burglary and grand larceny, seven indictments, pleaded not guilty; trial 18th.

Eliza Gebhardt, grand larceny, pleaded not guilty; trial 18th.

Henry Smith, Paul Hanley, George Cole and Francis Dorsey, burglary third degree and grand larceny, pleaded not guilty; trial 18th.

Peter Cunningham, burglary third degree, two indictments, pleaded not guilty; trial 18th.

Elizabeth Lewis, assault and battery, pleaded net guilty; trial 19th.

Celeste Corhardt, disorderly house, pleaded not guilty; trial 19th.

Stephen Donelson and David Harkins, grand larceny, pleaded not guilty; trial 19th.

Fred Brandon plead guilty to grand larceny and was sentenced to the Penitentiary for three years.

By Judge Freedman. m.—Decree of divorce in favor of

VOLUNTARY PETITION Nathan Boehm, Solomon Rapp, William T. Hen-derson, Thomas Weldon, John B. Borst, Jr.; James

Samuel W. Tapsley.

ADJUDICATIONS IN INVOLUNTARY CASES.

viz.:—Carl I. Mellel and John Frieher, of the town of New Utrecht; Henry Furnsa, George Rusko, Thomas Barkin, Rien L. Vo nees, Mary S. Larsen, William B. Sawyer, Robert J. Sharp and Felix Paterayn, all of the city of Brooklyn.

Letters of guardianship of the persons and estate of Lucy A. B. Cornell, Emma N. Cornell and Anna P. Cornell were tranted to Samuel H. Cornell, their father; of fryon Stratton to Emma R. Stratton, his mother; of flyon Stratton to Emma R. Stratton, his mother; of flyon Mosco Kessel; of John Voorhees, Cornelius B. Voorhees and Dominicus S. Voorhees to the Brooklyn Trust Campany; of Ann Jine Martin to Mary Jane Boyle, all of the city of Brooklyn.

LITERARY CHIT-CHAT.

ruary:—
Very few books have been issued since the holidays, and, with the exception of a few large houses, our publishers will put forth few new issues before Spring. The tendency to curtail the number of new publications is very marked, and we regard it as a healthy symptom. The issue of new books mut in general be looked upon as speculation. There is lisk incurred in publishing each book, and of course the greater the number published the greater the risk. Every publisher has a catalogue, larger or smaller, which affords a tolerably assured income, and more can be done in most cases to increase business by cultivating the demand for the books on this list than by additions to it. The Question of interest on the City

Cornhill upon "Heroi.m," in which he pays a well-merited tribute to two of the finest of modern no vels-Miss Muloch's "John Hahlax" and Thackeray's "Esmond"—in both of which is developed the grand moral of the possibility of heroism snywhere

and everywhere.

With the new year the Catholic Review, which has rapidly taken rank among the leading Catholic papers of the country, be; an its third volume.

THE SPIRITUALISTS have begun a quarterly

ournal, called Britan's Journal of Spirit cience, Literature, Art and Inspiration MISS LOUISA M. ALCOTT'S publishers, it is said

A BRIGIAN publisher has in press a book pur-porting to give the letters received by the Grand Duke Alexis from ladies during his sojourn in this

country.

Mr. George Chuikshank is engaged upon a volume of recollections, to be illustrated by the veteran author's pencil.

"Prom the Wilderness; or, Thirty-six Years in Texas and Iwo Winters in Honduras," by Z. N. Morrili, is just published by Goull & Lincoln. It has many facts and incidents connected with the early society and the rise of religion in Texas. Gamblers, refugees, soldiers, land speculators, ruffians, cutth oats, horse racers, missionaries, lawyers, bears, Indians, rattlesnakes and vampire bats meet and mingle in the pages of this amusing

AMERICAN RACING CALENDAR.—The publishers of this work in adopting the English system of consports have struck the right key. Turimen do not pally at race meetings that references are made to volume, giving the turf events of 1872 in the United States and the Canadas, published by the Turf, Field and Farm Association, is literally multum in parro. Each event is recorded in an official summary, with a brief description thereof, the betting, &c., appended, references to which are contained in an alphabetical gree of the horses engaged. This, by the way, is a capital arrangement, and, so far as pedigrees are concerned, serves the purpose of a stud book,

In addition to a record of turf events the "Rac ing Calendar" contains entries for stakes in 1873-4 the winners of the principal races in the United racing colors of all regular turimen; tables of the fastest time made at different distances; a list of thoroughbred toals, &c., all of which are comprehensively given under their several heads. The work embraces some three hundred pages.

THE COUNTESS HEINRUCTH.

Woman's Rights and Woman's Wrongs-Interesting Lecture by an Irish Noble-

ecture at Irving Hall, Portchester, on Thursday evening, before a very appreciative audience, on "Woman's Rights"—a subject which she handled with marked ability and rendered very interesting despite its threadbare and hackneyed character. The Countess, it may be mentioned, has resided on some years, living in comparative retirement. She was born in Fermoy, Ireland, of a highly aristocratic family, and was united in matrimony to Count Heinructh, a Prussian officer. After his death the Countess married a major in the French army, who, on retiring, accompanied his sponse to this country in 1861, where they moved in the highest circles. The Countess has paid several visits to her distinguished friends across the Atlantic. Her lecture the other evening was exceedingly path-tic, and the earnestness of her delivery created a deep impression. She was richly, though appropriately attired, and as she advanced to the front of the platform her stately muen failed not to attract general attention. Her enunciation was clear and distinct, and her style dignified and impressive. She said that before she would establish what should constitute woman's rights she would show a little of woman's yrongs, and then proceeded in a feeling manner to narrate the history of the grievances to which she had been subjected by the law's delay. She claimed she had been fleeced of her possessions—money, jewels and land—under circumstances which let no doubt of fraud on the part of ner oppressors, and went on at some length to dilate upon the fact that, being unprotected and alone, justice was difficult to obtain. She contended that, in view of the harassing nature of the injury she had sustained, ircedom and the liberty and rights of woman were denied her. She complained bitterly of the treatment she had received from certain Sheriff's officers, and, after commenting on the fact that she had been unable to obtain redress, submitted that a perfect union between man and woman should be the first climax of national existence and progress. Women, she argued, should be entitled to vote here as in England. The time would come when women's influence must be recognized in every assembly, and, after all, it was very easy for man to obviate the persecutions of the opposite sex. There were many poor women beside heresif who were totally e some years living in comparative retirement She was born in Fermoy, Ireland, of a highly aris-

THE GILBERT ELEVATED BAILWAY. New Facts of Interest.

Dr. Gilbert gave a HERALD reporter yesterday some new and interesting facts in regard to the elevated railway. The, contract for the sale o bonds of the road to the amount of \$5,500,000 was closed yesterday at the usual rate of commission. closed yesterday at the usual rate of commission. The bonds will net nearly par in greenbacks to the company, and the entire proceeds of the bonds are to be placed in one of the banks here within the next innety days, in trust for the railway. The reporter asked Dr. Gilbert to give him the name of the Londen firm who have signed the contract. "We should gladly do so," Mr. Gilbert said, "were it not against the policy of the directors." The plan of the railway embodics a "pneumatic despatch" for the rapid transmission of newspapers, letters, &c. This pneumatic despatch will be of great importance to the public. Newspapers will be transmitted from the City Hall to the Harlem River in ten minutes. Mr. Gilbert's plan, it is generally understood, is a great improvement en that which is used in London. It is based on principles which have been clearly established in the Mont Cenis tunnel. The indes will be made of wood and carried on both sides of the track and underneath the railway, and the package will be transmitted by partially exhausting the air in front and by compressing the air backward. This method has the advantage of causing the "news car" to travel with increased velocity, and to render it possible to control it at any station of the line. In London the news packages are transmitted by exhausting the air in front, thus allowing the ordinary pressure of the atmosphere to propel the packages through the tube. As regards the stock of the railway it is understood that it will be taken by the leading citizens of New York. zens of New York.

THE PHYPER FUND. The following additional subscriptions for the

DEATH OF EX-GOVERNOR GEARY.

Sudden and Melancholy Termination of His Life After Return from New York-At Breakfast in His Home in Harrisburg-Helping & Child and Dead in an Instant-Alarm and Grief in His Family and Mourning of His Friends.

John White Geary, ex-Governor of Pennsylvania, returne i to his home at Harrisburg from New York last night, apparently in good health. This morn ing when at breaklast, and while in the act of hete ing one of his children to something on the table his head suddenly fell back.

Mrs. Geary jumped up and passed around to the ex-Governor, but he was dead when she got to his

Heart disease is just now supposed to have kill

The fact of the ex-Governor's death having been male public the citizens of Harrisburg, Philadel-pais and all over the State of Pennsylvania are greatly excited, and much sorrow is expressed

John W. Geary was born in Westmoreland county. Pennsylvania, in the year 1820. He lost his inther while yet young, and thus became the early stay of his mother, whom he supported by teaching school. He was educated at Jefferson Coilege, at Canonsburg. He served through the Mcxican with great distinction, having served as heuten ant colonel of the Second Pennsylvania regiment and lought in Quitman's division in the bat La Hoya, chaputepec, Garita de Beien and City e he at once took charge of a company. He was soon promoted to a coloneley, and his regiment was one eral scott to aid the regulars at the siege of the Mexican capital. On the return of the regimea ored by an immense concourse of people at Pitta-burg, the eminent William Wilkins being tae orator. Under Polk's administration he was ap pointed General Postal Agent for the Western coasts, with plenary power to periorm all the this position he was relieved by the advent of General Taylor to the Presidency, and was immediately and unanimously elected Pirst Alcal le and Judge of San Francisco, and after the city got a charter he was chosen its first Mayor. The institutions of that State received their first impulse from the administration of General Geary.

quietly on his farm in Westmoreland county till 1856, when he was a pointed by President Pierce

a rebellion would surely spring out of the troubles in Kansas if proper steps were not taken to prevent it.

On the breaking out of the rebellion Governor Geary raised and equipped the Twenty-cighta Pennsylvanis Volunteers and took the field as their coionel. He was shortly afterwards appointed Brigadier General of Volunteers, and participated in all the great battles during the Peninsular and Virginia campaigns till after the battle of Gettysburg, when the Eleventh and Twelith corps were consolidated into the Twentieth, and he joined the Western forces, under Hooker, with his famous "White Star" division. He arrived in the Southwest in time for the glorious battle of Lookout Mountain, where he greatly distinguished himself by heading his division and leading it against the enemy's works on the towering crest of the hill. It was deneral Geary's evil fortune to lose all his old staff onlicers in action, among them his son, Captain Edward Geary. As the yeang soldier fell, pierced through the skull by a builet, his father dashed by, clasped in one agonizing embrace the lileless form of his son—it was built for a moment—and then the father turned again to his duty, and once more attacked the enemy's line, bursting through it and hurling back the foe. At the capture of Atlanta his division was the first to plant the flag over the Court House, and it was ready to assanit the city of Savannah when the Mayor and Council surrendered it to General Geary. His campaigns may be said to end with the capture of Savannah, in December, 1864, as will be seen from his farewell address to his troops, in which he enumerated their battles as follows:—Rich Mountain, Carrick's Ford, Winchester, Fort Republic, Bolivar, Cedar Mountain, Second Buil Run, Antietam, Changler Burden and Savannah.

Among the few ske-hes of General Geary none more tity describes him "Man the following, from the pen of a member of General Sherman's Stan, written just as the war was closing:—

General Geary, commanding a division in the Twenteth corps, is now th

the pen of a member of General Sherman's staf, written just as the war was closing.

General Geary, commanding a division in the Twenteth corps, is now the Mintary Governor of Savannah. He is a tail, salwart, so, derly man, with a run black beard and an open and inviting face. He has a hearty, hospitable manner, which pleases everbody; is sensible, discreet and drm; understands precisely the attention of his duties, and executes them noiselessly but effectively. The citizens are deligated with him, and they may well be so, for no city was ever kept in better order. Clean streets, careful and well-instructed guarda, perfect protection of property and a general sane of comort and security indicate the executive capacity, and the good judgment of the General.

In 1866 General Geary was nominated for Governor of his mative State by the Republican Convention at Harrisburg, and he was elected by a large majority. Three years afterward he was renominated and re-elected, and his second term had expired only a few weeks before his death. Though successful in both his military and political aspirations far beyond the common lot of men, Governor Geary's ambition was not yet satisfied, and locked forward with seme degree of hope to the Presidency. His popularity suffered a decline during his last term as Governor of Pennsylvania, and his reputation as an honest public servant was also questioned. This will be lorgotten in view of the wounds he received in action and the many great services he rendered to his country. These services it is not easy to recount, for they embrace a large part of the history of the country. Here, too, he received a contusies, from a suell, from which he, however, soon recovered. In the battle of Gettysburg, it will be remembered, he with his gallant division defended the right of our lines, and drove back, after one of the enemy. Here, too, he received a contusies from a suell, from which he, however, soon recovered, he with his gallant division defended the right of our lines, and drove back, a

THE THIRTEENTH STREET WIFE-SHOOTING

Officer Meyer, of the Union Market police, yester day arraigned at Essex Market Charles Hoy, who attempted to kill his wife on Friday evening, details of which appeared in yesterday's HERALD. Hoy, who is about forty years of age, does not look like a murderer, but he bore traces of debauchery. The Judge committed him to await the result of his wife's injuries. But few new facts were de-veloped. It seems that he has lived for some time with his wife and four children at circulated pretty freely among the gin mills, and becoming intoxicated returned home, entered his apartments, asked his wife to lock the door, and while she was doing so he drew two small single-barrel pistols, purchased in Chatham street during the day, and put one builet into Mrs. Hoy's body. The ball entered the right breast and reactrated the lungs. The woman fell to the neartrated the lungs, and her little boy raised the window and cried "Murder!" The father becoming alarmed rushed into the street, and was pursued by Officer Moyer, who captured him at Sixth street. The woman states that Hoy, who married her twelve years ago, in England, had neglected her and her children, and brutally treated them, spending his money in the purchase of liquor. Captain Murphy found the pistol in a washtub in the house, it is quite evident that Hoy was prompted to commit the deed by jealousy, as he charges that during a residence of six weeks in Cincunnati as a laborer his wife never wrote to him, and believing she was untrue to her marital vows he returned home. The pistols were purchased on his way from the depot the night of his return. He slept that night at his father's house, in Musberry street, and nater spending the day in priming himself with liquor went home to commit the deed for which he is now benind the iron grating. Mrs. Hoy's condition yesterday was such as to cause fears as to her recovery; but, as there is no probability that death will immediately ensue, the Coroner, up to a late hour yesterday, had not been summoned to take her ante-mortem "tatement. circulated pretty freely among the gin mills, a